

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	MICHAEL BISHOP et al.	) Group Art Unit: 2614
		)
Serial No.:	10/719,476	) Examiner: Mohammad Aamir Haq
		)
Filed:	November 21, 2003	) Confirmation No. 3625
		)
For:	METHOD, SYSTEM AND	)
	COMPUTER PROGRAM	)
	PRODUCT FOR PROVIDING A	)
	NO-RING TELEPHONE CALL	)
	SERVICE	)

Via EFS  
Mail Stop AF  
Commissioner for Patents  
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SIR:

Pre-Appeal Brief Request for Review

In response to the final Office Action mailed May 30, 2007 setting an original due date for response of August 30, 2007 and with a Petition for a three-month extension of time setting a new due date for response of November 30, 2007, and in conjunction with a concurrently filed Notice of Appeal, the Applicant submits a Pre-Appeal Brief Request for Review for entry in the above-identified application. The fee set forth in 37 CFR 41.20(b)(1) is enclosed herewith. If there are any additional charges with respect to this Request, or otherwise, please charge them to Deposit Account No. 06-1130.

**REMARKS**

Claims 1-25 are pending in the application. In the final Office Action mailed on May 30, 2007 (hereafter Office Action), claims 1-5 and 7-25 were rejected under 35 USC § 103(a) as unpatentable over Kasiviswanathan, US Patent No. 6,215,857 (hereafter "Kasiviswanathan") in view of Shaffer et al., US Patent No. 6,600,817 (hereafter "Shaffer"). Claim 6 was rejected under 35 USC § 103(a) as unpatentable over Kasiviswanathan in view of Shaffer and further in view of Medamana et al., US Patent No. 5,181,238 (hereafter "Medamana").

Independent claim 1 recites "**when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call**, instructions to play a pre-recorded message are communicated to the switch, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number" (claim 1, lines 11-15, emphasis added).

In the Office Action, it was admitted that Kasiviswanathan "does not disclose expressly the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call" (Office Action, page 3, lines 12-16). Further, in the Office Action, it was admitted that Kasiviswanathan "does not teach that the pre-recorded message gives the option to direct connect instead of being disconnected" (Office Action, page 11, lines 12-13).

What was cited by the Office Action as support in Kasiviswanathan teaches away from the recitation of "**when the called party telephone number does not correspond to a voice mail platform telephone number**" (claim 1, lines 11-12, emphasis added), because Kasiviswanathan teaches that "'Direct Voice Mail Access' (DVMA) is a feature that provides capability to a calling subscriber to access a voice mail system" (column 4, lines 7-8, emphasis added). Thus, what was cited in Kasiviswanathan is the opposite of what is recited in claim 1 at lines 11-12, because not corresponding "to a voice mail platform", as recited in claim 1 is the opposite of providing a "capability to . . . to access a voice mail system" as recited in

Kasiviswanathan. Therefore, the interpretation in the Office Action of the reference to Kasiviswanathan is in error.

Next, it was alleged that Shaffer (elements 44-48 of FIG. 2; the Abstract; and column 5, lines 49-55) shows what is admittedly lacking in Kasiviswanathan. However, what was cited by the Office Action as support in Shaffer is silent as to the recitation of "**when the called party telephone number does not correspond to a voice mail platform telephone number**" (claim 1, lines 11-12, emphasis added), and Shaffer is also silent as to a "**calling party device is utilizing the no-ring telephone call service**", as recited in claim 1, lines 12-13 (emphasis added). Thus Shaffer does not cure the noted deficiencies in Kasiviswanathan. Additionally, impermissible hindsight was relied upon in the Office Action to arrive at the conclusion that Kasiviswanathan and Shaffer allegedly show the recitation of claim 1 at lines 11-15. Nothing was cited or found in Kasiviswanathan and Shaffer, either combined together or taken separately, that teaches or suggests each recitation of claim 1. For at least the above reasons, claim 1 distinguishes over the applied art of record and is allowable.

Independent claims 10, 22 and 25 recite "when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call" in a manner similar to claim 1. Dependent claims 2-9, 11-21, 23-24 depend from claims 1, 10 and 22 respectively. Therefore, claims 2-25 distinguish over the applied art and are allowable for at least the reasons discussed above with regard to claim 1.

Additionally, claim 3 recites "the region wide messaging database includes voice mail platform telephone number attributes and called party telephone number attributes" (claim 3, lines 1-3). On page 6 of the Office Action, the Examiner failed to provide any proof or evidence in support of the conclusory statement that "[obviously], the database would include the subscriber's telephone number, account information, and voicemail platform telephone number that the switch uses to direct the call" (Office Action, page 6, lines 7-9). The Applicants respectfully request the Examiner produce written support of the stated conclusion of obviousness. This rejection is improper and suggests that impermissible hindsight was relied upon to reach the conclusion of obviousness.

Additionally, claim 24 recites "the telephone call is routed via a packet switching network" (claim 24, lines 1-2). On page 8 of the Office Action, the Examiner failed to provide any proof or evidence in support of the conclusory statement that "[obviously] if the call was made in a VOIP environment the call would be routed via a packet switched network. If the call is made using the PSTN, the call would be routed via a circuit switched network. The invention of [Kasiviswanathan] could be applied to either environment without departing from the scope of the invention" (Office Action, page 8, lines 8-11). The Applicants respectfully request the Examiner produce written support of the stated conclusion of obviousness. This rejection is improper and suggests that impermissible hindsight was relied upon to reach the conclusion of obviousness.

For at least these additional reasons, claims 3 and 24 are allowable. For all of the above reasons it is respectfully requested that the finality of the rejections be withdrawn.

Finally, Applicants' representative respectfully directs the Examiner's attention to item 3 on page 8 of the Office Action, which attributes US Patent No. "6,215,847" to Kasiviswanathan. Applicants' representative suspects that this is a typographical error and respectfully requests the Examiner clarify the reference relied upon in the rejection of claim 6.

Reconsideration and reversal of the rejections based upon the above factual deficiencies are respectfully requested.

In view of the foregoing, it is urged that the final rejection of claims 1-25 be reversed, because of the clear error of fact relied on in the final rejection.

If there are any additional charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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